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Eric L. Miller
Chief Executive Officer

December 16, 1996

Commissioner Michal Moore
Commissioner Jananne Sharpless
California Energy Commission
1516 9th St., MS-34
Sacramento, CA 95814

RE: Docket No: 96-REN-1890: Additional Information regarding the Foresight Energy/Working Assets Proposal

Dear Commissioners:

This letter is in response to questions of the Commission and of other parties regarding the Foresight Energy/Working Assets Proposal. Specifically, this response addresses the portion of the funds needed by retail marketers to create a viable renewable market, questions regarding the contract restructuring proposal, and questions of the veracity of my comments to the Committee raised in a letter of December 9, 1996 by Eric Wills on behalf of the California Biomass Energy Alliance, American Wind Energy Association, Solar Thermal Electric Association, Geothermal Energy Alliance.

Allocation of Customer Credits under Foresight/Working Assets Proposal

The customer credits awarded under our proposal simply create a reduced energy bill for electricity customers who are not purchasing from the host utility. Our program makes no allocation of that credit between the customer, retailer, and supplier. This allocation would be made by the market in the give and take between the three. In considering the structure of our proposal, we purposefully chose to provide the funds in the form of customer credits, but provide the credits to the producers. This approach assures the presence of all three elements of a functioning market (producers, sellers, and customers), but does not leave any one party in complete control. Under our proposal, <u>none</u> of the $540 million authorized by AB 1890 is guaranteed to go to any individual retailers, or retailers in general. Retailers could participate in these funds only to the extent they provided a valuable service in organizing and servicing a customer base that would make use of the credits. A project need only find a willing customer to gain the value of the credits. The choice of which marketer to use, if any, is left entirely to the renewable project.

Accordingly, it is impossible to accurately determine in advance what share each party would receive of the customer credits. The allocation will depend on many factors not yet known including the size of the CTC; the size of the distribution charges; whether billing, metering and customer service are unbundled; and on the market price for renewable and conventional generation.

While the final allocation cannot be determined in advance, it is possible to make some observations regarding the factors which may influence each market segment.

Customers
The customer is not likely to need any financial inducement to switch to clean energy. However, consumers are not willing to pay higher rates for green energy where the increase is caused by duplicative billing costs or high CTC charges.

Retailers
If distribution and CTC charges are set in a manner that there is no duplication or cross subsidization of other utility functions, then the retailer would not need any of the $540 million. The retailers' marketing, customer service, and billing costs would be entirely recovered through a portion of the retail price premium and reduced distribution charges. However, the marketer will have to pay CTC to the utility, and at present most expect the CTC to include significant ongoing operating subsidies. As a result, it is likely that a portion of the funds would need to be used by the retailer to reduce the CTC during the transition. Depending on the outcome of the unbundling proceedings, the size of the CTC, and the price of the power exchange, the outside support needed to make retailers competitive with utility power during the transition will likely fall between 0.5 and 2.2 cents per kWh.

Producers
Since our program grants the credits to the producer, they should retain any value in the credits not required by the retailer to overcome CTC charges.

Given the wide range of these uncertainties, we concluded that it was impractical to fix a single allocation between marketers and producers and instead leave the decision to the market. The Foresight/Working Assets proposal is the only one proffered to the Committee in which the proponents have relied on their value to the market to determine the share of support they receive.

Contract Restructuring Options

We must first emphasize that the restructuring options proposed are voluntary options only. No project would be compelled to modify or terminate its contract. We will strongly oppose mandatory contract restructuring or modification of any kind.

However, in over 5 years of experience managing a portfolio of over 500MW of renewable and gas fired QF resources located in California, I found that realistic restructuring options for those projects who do want to enter the marketplace have been all but unavailable. We consider it critical for the projects, the market, and customers that those projects who do want to help build a clean energy market should be provided the means to do so without requiring a loss on their existing contract. The CTC credit mechanism we have proposed allows, for the first time, the opportunity for projects to enter the market without a substantial loss of value. It will also reduce the utility's stranded costs, lowering rates to consumers over the long term. By increasing the base of supply and customer credits, this component of our proposal will reduce demands on the $540 million.

Comments on December 3 Testimony

Mr. Wills' letter of December 6 seems to question the veracity of my statement that I have spoken with a number of California renewable energy projects, and that these projects, collectively 200 to 250 MW have expressed interest in our proposal. I stand by my statements to the Committee.

The letter also seems to suggest that building a green market is best left to after the transition period. We strongly disagree. The transition period is a unique window in which to create this market absent abundant price only competition. The utility rate freeze creates a period of high, stable retail rates ideal for introducing a product that provides improved value to consumers. These higher retail rates will translate directly into higher wholesale rates for renewable producers. Once established, the green retail industry will be able to sustain the onslaught of price only competition after the year 2000. If creation of the green market is delayed until after the transition period, price dominated marketing may overwhelm the green energy message, and it may be too late to define the market in a way that is friendly to renewable energy.

We hope this additional information is of assistance to the Committee, the Staff, and other Stakeholders. We remain open to discussing any aspect of our proposal with all parties in the proceeding.

Yours Truly,

Electronically Filed

Eric L. Miller

On behalf of
Foresight Energy Company
Working Assets Green Power

cc. Jodi London, Working Assets